

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

TOMMY RAY MOSLEY,
ADC #85548

PLAINTIFF

v.

5:07CV00305HLJ

CORRECTIONAL MEDICAL SERVICES
INC., et al.

DEFENDANTS

MEMORANDUM AND ORDER

By Order dated May 7, 2008, this Court granted defendants' motion to dismiss plaintiff's complaint based on his "three-strikes" status, and provided plaintiff an opportunity in which to amend his complaint concerning any allegations of deliberate indifference to his present serious medical needs. Plaintiff has now filed an amended complaint (DE #40).

Plaintiff's amended complaint includes allegations concerning policies of Correctional Medical Services, Inc. (CMS) which do not provide testing for herpes, and which have caused the uncontrolled spread of herpes through the inmate populations. In addition, plaintiff complains about the lack of CMS policies concerning double-celling of prisoners and lack of proper staff training for identifying this disease. However, as the Court noted in the May 5, 2008 Proposed Findings and Recommendation, which was adopted as its Order on May 7, 2008, "plaintiff should be provided the opportunity in which to amend his complaint with respect to an allegation that he presently can not obtain treatment of his illnesses....in which he may include allegations against individual defendants who are responsible for failing to treat his illnesses." DE #35.

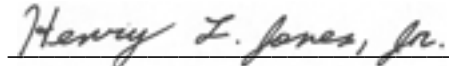
Having reviewed plaintiff's amended complaint, the Court finds that it does not comply with the May 5 and May 7 Orders and concerns the same allegations set forth in his original complaint,

which were dismissed. Therefore, the Court finds that plaintiff's amended complaint must be dismissed. Accordingly,

IT IS, THEREFORE, ORDERED that plaintiff's complaint against defendants is DISMISSED without prejudice. Should plaintiff wish to continue this case, he shall submit the statutory filing fee of \$350.00 to the Clerk, noting the above case style and number within ten (10) days of the date of this Order, along with a motion to reopen the case. Upon receipt of the motion and full payment, the case will be reopened.

An appropriate Judgment shall accompany this Memorandum and Order.

IT IS SO ORDERED this 11th day of June, 2008.



United States Magistrate Judge